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BEFORE THE ARIZONA CORPORATION COMMISSION


COMMISSIONERS

Arizona Corporation Commission

**DOCKETED**

DEC - 9 2003

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

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| DOCKETED BY |  |
|-------------|--|

IN THE MATTER OF THE APPLICATION OF  
TEL LOGIC dba QUALITY TELEPHONE FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE RESOLD LOCAL  
EXCHANGE SERVICES AND FOR  
DETERMINATION THAT SERVICES OF THE  
APPLICANT ARE COMPETITIVE.

DOCKET NO. T-04172A-03-0153

DECISION NO. 66611

ORDER

Open Meeting  
December 2 and 3, 2003  
Phoenix, Arizona

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On March 12, 2003, Tel Logic dba Quality Telephone ("Applicant" or "Quality") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold local exchange telecommunications services within the State of Arizona.

2. Applicant is a switchless reseller that purchases telecommunications services from a variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") are public service corporations subject to the jurisdiction of the Commission.

4. Quality has authority to transact business in the State of Arizona.

5. On August 13, 2003, the Commission's Utilities Division Staff ("Staff") filed a Staff Report recommending approval of the application, subject to certain conditions.

1       6.     On November 12, 2003, Quality filed an Affidavit of Publication verifying that it had  
2 published notice of its application that complies with the Commission's notice requirements.

3       7.     In the Staff Report, Staff stated that Quality provided unaudited financial statements  
4 for the five months ending December 31, 2002, which list assets of \$197,909, equity of \$147,109,  
5 and a net loss of \$257.

6       8.     In the Staff Report, Staff stated that based on information obtained from the Applicant,  
7 it has determined that Applicant's fair value rate base ("FVRB") is zero. Staff stated Applicant's  
8 FVRB is too small to be useful in setting rates. Staff further stated that in general, rates for  
9 competitive services are not set according to rate of return regulation, but are heavily influenced by  
10 the market. Staff recommended that the Commission not set rates for Applicant based on the fair  
11 value of its rate base.

12       9.     Staff believes that Quality has no market power and that the reasonableness of its rates  
13 will be evaluated in a market with numerous competitors. In light of the competitive market in which  
14 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed  
15 tariffs for its competitive services will be just and reasonable, and recommends that the Commission  
16 approve them.

17       10.    Staff recommended approval of Quality's application subject to the following:

18           (a)   The Applicant should be ordered to comply with all Commission rules, orders,  
19 and other requirements relevant to the provision of intrastate telecommunications  
20 service;

21           (b)   The Applicant should be ordered to maintain its accounts and records as  
22 required by the Commission;

23           (c)   The Applicant should be ordered to file with the Commission all financial and  
24 other reports that the Commission may require, and in a form and at such times as the  
25 Commission may designate;

26           (d)   The Applicant should be ordered to maintain on file with the Commission all  
27 current tariffs and rates, and any service standards that the Commission may require;

28           (e)   The Applicant should be ordered to comply with the Commission's rules and  
modify its tariffs to conform to these rules if it is determined that there is a conflict  
between the Applicant's tariffs and the Commission's rules;

1 (f) The Applicant should be ordered to cooperate with Commission investigations  
2 of customer complaints;

3 (g) The Applicant should be ordered to participate in and contribute to a universal  
4 service fund, as required by the Commission;

5 (h) The Applicant should be ordered to notify the Commission immediately upon  
6 changes to the Applicant's address or telephone number;

7 (i) The Applicant's local exchange service offerings should be classified as  
8 competitive pursuant to A.A.C. R14-2-1108;

9 (j) The Applicant's maximum rates should be the maximum rates proposed by the  
10 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive  
11 services should be the Applicant's total service long run incremental costs of  
12 providing those services as set forth in A.A.C. R14-2-1109;

13 (k) In the event that the Applicant states only one rate in its proposed tariff for a  
14 competitive service, the rate stated should be the effective (actual) price to be charged  
15 for the service as well as the service's maximum rate;

16 11. Staff further recommended that Quality's resold local exchange Certificates should be  
17 conditioned upon the Applicant filing conforming tariffs for each Certificate in accordance with this  
18 Decision within 365 days from the date of an Order in this matter, or 30 days prior to providing  
19 service, whichever comes first, and in accordance with the Decision.

20 12. Monthly service charges are paid in advance by Quality's local exchange service  
21 customers.

22 13. Staff recommended that Quality's resold local exchange Certificate should be  
23 conditioned upon the Applicant procuring a performance bond as described in Findings of Fact No.  
24 14 below, and filing proof of that performance bond within 365 days from the date of an Order in this  
25 matter, or 30 days prior to providing service, whichever comes first, and in accordance with the  
26 Decision, and the performance bond should remain in effect until further Order of the Commission.

27 14. Staff recommended that Quality be required to procure a performance bond in the  
28 initial amount \$25,000, with the minimum bond amount of \$25,000 to be increased if at any time it  
would be insufficient to cover all advances, deposits, or prepayments collected from its customers, in  
the following manner: The bond amount should be increased in increments of \$12,500, with such

1 increases to occur whenever the total amount of the advances, deposits, and prepayments reaches a  
2 level within \$2,500 under the actual bond amount.

3 15. Staff further recommended that Quality's resold local exchange Certificate should be  
4 conditioned upon the following requirements: that if Quality wishes to discontinue service, it must  
5 file an application with the Commission pursuant to A.A.C. R14-2-1107; that it must notify each of  
6 its customers and the Commission 60 days prior to filing such an application to discontinue service;  
7 and that if Applicant fails to make such notification 60 days prior to filing an application under  
8 A.A.C. R14-2-1107, then it will forfeit its performance bond.

9 16. Staff recommended that if the Applicant fails to meet the timeframes outlined in  
10 Findings of Fact. Nos. 11, 13 or 15 above, then Applicant's resold local exchange Certificate should  
11 become null and void without further Order of the Commission, and that no time extensions for  
12 compliance should be granted.

13 17. The rates proposed by these filings are for competitive services.

14 18. Staff's recommendations as set forth herein are reasonable.

15 19. Quality's fair value rate base is zero.

16 **CONCLUSIONS OF LAW**

17 1. Applicant is a public service corporation within the meaning of Article XV of the  
18 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

19 2. The Commission has jurisdiction over Applicant and the subject matter of the  
20 application.

21 3. Notice of the application was given in accordance with the law.

22 4. Applicant's provision of resold local exchange telecommunications services is in the  
23 public interest.

24 5. Applicant is a fit and proper entity to receive the Certificate as conditioned herein for  
25 providing competitive resold local exchange services in Arizona.

26 6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, 13, 14, 15, and 16  
27 should be adopted.

28 7. Quality's fair value rate base is not useful in determining just and reasonable rates for

1 the competitive services it proposes to provide to Arizona customers.

2 8. Quality's rates, as they appear in its proposed tariffs, are just and reasonable and  
3 should be approved.

4 **ORDER**

5 IT IS THEREFORE ORDERED that the application of Tel Logic dba Quality Telephone for a  
6 Certificate of Convenience and Necessity for authority to provide competitive resold local exchange  
7 services is hereby granted, conditioned upon its compliance with the conditions recommended by  
8 Staff as set forth in Findings of Fact Nos. 11, 13 and 15 above.

9 IT IS FURTHER ORDERED that if Tel Logic dba Quality Telephone fails to meet the  
10 timeframes outlined in Findings of Fact. Nos. 11, 13 or 15 above, then the resold local exchange  
11 Certificate of Convenience and Necessity conditionally granted herein shall become null and void  
12 without further Order of the Commission.

13 IT IS FURTHER ORDERED that if Tel Logic dba Quality Telephone fails to notify each of  
14 its customers and the Commission at least 60 days prior to filing an application to discontinue service  
15 pursuant to A.A.C. R14-2-1107, that in addition to voidance of its resold local exchange Certificate  
16 of Convenience and Necessity, Tel Logic dba Quality Telephone performance bond shall be forfeited.

17 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.  
18 10 and 14 above are hereby adopted.

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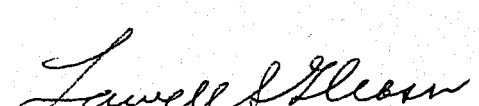

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IT IS FURTHER ORDERED that Tel Logic dba Quality Telephone shall comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 10 and 14 above.

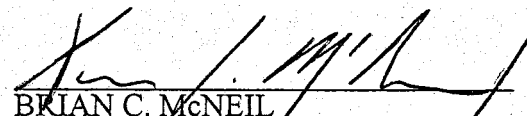
IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

    
CHAIRMAN COMMISSIONER COMMISSIONER

   
COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 9<sup>th</sup> day of December, 2003.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

AP:mlj

1 SERVICE LIST FOR: TEL LOGIC dba QUALITY TELEPHONE

2 DOCKET NO.: T-04172A-03-0153

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4 Frank McGovern  
5 Tel Logic  
6 301 N. Market Street, #400  
7 Dallas, TX 75202

8 Christopher K. Kempley  
9 Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 W. Washington Street  
12 Phoenix, Arizona 85007

13 Ernest G. Johnson  
14 Utilities Division  
15 ARIZONA CORPORATION COMMISSION  
16 1200 W. Washington Street  
17 Phoenix, Arizona 85007

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